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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 LEIDSEPLEIN PRESSE, B.V.,

10 Plaintiff,

11 v.

12 JOHN DOES, et al.,

13 Defendants.

CASE NO. C16-5065 BHS

ORDER DENYING PLAINTIFF'S
MOTION FOR TEMPORARY
RESTRAINING ORDER

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15 This matter comes before the Court on a motion for a temporary restraining order
16 brought by Leidseplein Presse, B.V.'s, a Netherlands corporation, on behalf of "AC/DC"
17 ("Plaintiff"). Dkt. 2. The Court has considered the pleadings filed in support of the
18 motion and the remainder of the file and hereby denies the motion for the reasons stated
19 herein.

20 **I. PROCEDURAL HISTORY**

21 On January 26, 2016, Plaintiff filed a complaint against Various John Does, Jane
22 Does, and XYZ Companies alleging past and possible future acts that infringe Plaintiff's

1 registered trademarks. Dkt. 1. Plaintiff filed the complaint against various unknown
2 individuals and corporations. *Id.* Plaintiff also filed a motion for temporary restraining
3 order requesting an order of seizure executed by the U.S. Marshall, local authorities,
4 and/or private security personnel. Dkt. 2. Plaintiff also requests a show cause hearing,
5 which is essentially a waste of resources if defendants' identities are unknown and they
6 are not served with notice of the hearing. *Id.*

7 **II. DISCUSSION**

8 While this may be a question of first impression in this Court, district courts across
9 the nation are split on the propriety of Plaintiff's anticipatory request for an order of
10 seizure. *Compare SKS Merch, LLC v. Barry*, 233 F. Supp. 2d 841 (E.D. Ky. 2002)
11 (granting nationwide order of seizure), *with Plant v. Doe*, 19 F. Supp. 2d 1316 (S.D. Fla.
12 1998) (denying order of seizure). Courts are also split on whether the order should apply
13 nationwide or only with the local district. *See Barry*, 233 F. Supp. 2d at 848–51
14 (collecting cases). The Court is unable to find any appellate court authority on these
15 issues, most likely because no defendant has contested any seizure. Based upon review
16 of the briefing and relevant persuasive trial court authority, the Court agrees with the
17 *Plant* court that Plaintiff's request raises serious jurisdictional and justiciability issues.
18 *See Plant*, 19 F. Supp. 2d at 1318–19. The Court need not add any more to that order,
19 and, based on the facts and procedural history that are remarkably similar to this case, the
20 Court adopts the reasoning set forth therein, and denies Plaintiff's motion.

21 Additionally, the Court finds that, at this time, Plaintiff has failed to show
22 immediate and irreparable harm in the absence of temporary relief. While Plaintiff has

1 identified bootleggers at previous shows on previous tours, the upcoming show in
2 Tacoma is the first show of a North American tour. Other than speculation, conjecture,
3 and past experience, there is no particularized evidence that bootleggers will appear at
4 this show or follow the band during the tour. Moreover, Plaintiff has failed to show that
5 other means of preventing the alleged sales are either unavailable or unavailing. Plaintiff
6 has failed to submit evidence describing efforts made to explore other available means of
7 preventing unauthorized vendors in the vicinity of the Tacoma Dome venue. The Court,
8 for example, should have been provided more detail regarding the nature of Plaintiff's
9 agreement concerning use of the venue, the parking area, and other facilities.

10 Unanswered questions include: What controls are in place for the unauthorized use of
11 these facilities for the planned event? Would vendors need a license to sell their products
12 either on property owned by the venue or nearby City of Tacoma owned rights-of-way? If
13 so, would the local authorities be authorized to enforce complaints against violators for
14 trespass or violating other laws or regulations?

15 Finally, it appears that whatever urgency is presented by this motion is
16 fundamentally due to the Plaintiff's own delay in bringing this action, which appears
17 could have been brought months ago.

18 Therefore, the Court also denies Plaintiff's motion because Plaintiff has simply
19 failed to meet the high standard for obtaining an *ex parte* temporary restraining order that
20 would engage the full force of the federal judicial and police powers.

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1 **III. ORDER**

2 Therefore, it is hereby **ORDERED** that Plaintiff's motion for a temporary
3 restraining order (Dkt. 2) is **DENIED**.

4 Dated this 28th day of January, 2016.

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6 BENJAMIN H. SETTLE
7 United States District Judge
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